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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,425	08/16/2001	Kirk C. Salomon	10629-003	2900
20583	7590	03/30/2004	EXAMINER	
JONES DAY 222 EAST 41ST STREET NEW YORK, NY 10017			INGBERG, TODD D	
			ART UNIT	PAPER NUMBER
			2124	11

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/931,425

Applicant(s)

SALOMON, KIRK C.

Examiner

Todd Ingberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-9 have been examined.

Claims 8 and 9 have been added.

Claims 1, 3, 4, 5, 6 and 7 have been amended.

Drawings

1. The drawings were received on December 18, 2003 . These drawings are accepted.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over **OpenView** as disclosed in “Focus on OpenView A Guide to Hewlett-Packards Network and Systems Management Platform” published 1995 in view **Rhodes et al** (USPN 5,909,437) filed May 31, 1996 with a priority date of June 2, 1995.

Claim 1

A wireless application server system comprising digital data stored on one or more storage media, the data further comprising: a central application server program configured to be downloaded to one or more remote wireless application server computers and to execute on the one or more remote wireless application server computers, the central application server program being further configured to cause the one or more remote application server computers to download and to install one or more wireless application software components on the one or more remote wireless application server computer; the one or more wireless application server programs being configured to transmit to one or more portable devices one or more client applications and to cause the one or more portable devices to install the one or more client applications; the client applications being configured to communicate with the remote wireless application server computer over a wireless network.

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Examiner's Response

HP OpenView teaches an application server with a central application server program to configure applications for downloading to be executed on one or more remote computers. The downloaded programs install on the remote computers (HP OpenView, pages, 179 - 185, software Distributor). The 1995 HP OpenView reference does not teach the network being wireless. It is Rhodes that teaches a software download for wireless communications (**Rhodes**, see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine HP **OpenView** and **Rhodes** to enable the powerful HP OpenView product to support wireless networks, because regardless of the connectivity applications need to be configured, downloaded and installed and the HP OpenView product make network management more efficient.

Claim 2

The wireless application server system of claim 1, further comprising a license server configured to update a database of license information in response to execution of the wireless application software and to cause notifications of charges to be generated based on the license information.

Examiner's Response

(as per claim 1 and Hp Open View, Licensing as per pages 182 and 199).

Claim 3

The wireless application server system of claim 1, further comprising a central application server configured to transmit the application server program and the one or more wireless application software to the one or more remote wireless application server computers.

Examiner's Response

As per claim 1 and Rhodes Abstract).

Claim 4

The wireless application server system of claim 1, wherein the application server program is further configured to download and to install a different set of wireless application server components on different remote wireless application server computers.

Examiner's Response

As per claims 1 and 3.

Claim 5

The wireless application server system of claim 1, wherein the data further comprises application data resulting from execution of the one or more wireless application server programs.

Examiner's Response

As per claim 1 and HP OpenView page 94 ability to monitor and collect.

Claim 6

The wireless application server system of claim 5, wherein the application data is processed and filtered by the one or more local application server computers before transmitting the pre-processed and filtered data to the master application server.

Examiner's Response

As per claim 1 and Hp OpenView, page 104 to 110, power agents to load monitors.

Claim 7

The wireless application server system of claim 1, wherein the application server program is further configured to cause the one or more remote application server computers to update one or

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more wireless application software programs on the one or more remote wireless application server computers.

Examiner's Response

As per claim 1 and Rhodes, Abstract.

Claim 8

A wireless application server system comprising: an application server database comprising at least one application server program, a wireless software database comprising at least one wireless software program, and a central site application server, the central site application server comprising a computer and a storage media for storing programs and data, the computer located at a central site and in communication with a communication network, the computer executing a server program configured to download the at least one application server program and the at least one wireless software program to a remote application server in response to a request by the remote application server; wherein a wireless device executing one of the at least one wireless software program downloaded from, the remote application server exchanges data with the remote application server and the central site application server.

Examiner's Response

As per claims 1 and 3.

Claim 9

A wireless application server system comprising: a central site application server in communication with a communication network; a remote site application component configured to execute on a remote site computer, the remote site application component configured to communicate with the central site application server and to communicate with an access point over a local area network; and a wireless client component configured to execute on a wireless device in communication with the access point, the wireless client software configured to provide exchange of application data with the central site application server and the remote site application server.

Examiner's Response

As per claims 1 and 3.

Response to Arguments

4. The following is the Applicant's argument's and the Examiner's response. Please, note the Applicant's arguments are scanned in from the response and may contain errors due to the scanner.

Applicant's Argument

"The Office Action has rejected claims 1 - 7 under 35 U.S.C. §112, 2nd as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, dependent claims 3 - 7 have been amended to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claim 1 has also been amended to comply with the Office Action. In addition, claim 1 has been amended to further clarify the distinction between the central application server program located at the central site and the one or more wireless application server programs that are downloaded to the remote site computer. The above-mentioned

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amendments are not intended to limit the scope of the amended claims for doctrine of equivalence purposes. In particular, the use of the term „remote" is not intended to limit the scope of the term to that defined in U.S. Patent No. 6,052,600 issued to Fette et al. (Fette).

Applicants respectfully submit that the rejection under 35 U.S.C. §112, 2nd has been overcome and respectfully request that the rejection be withdrawn.”

Examiner's Response

Amendment has overcome the 112 rejection.

Applicant's Argument

“The Office Action has rejected claims 1 - 7 under 35 U.S.C. § 102(b) as being anticipated by Fette. Specifically, the, Office Action refers to fig.1, ref.1 10 of Fette as disclosing a remote wireless application server. The Office Action further refers to col.4, lines 25-44 of Fette as disclosing the central application server program being further configured to cause the one or more remote application server computers to download and to install one or more wireless application software components on the one or more remote wireless application server computer.”

Examiner's Response

Amendment to claims acknowledged.

Applicant's Argument

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). See also MPEP §2131.

Applicant respectfully submits that the referred passage in Fette does not teach or disclose installing one or more wireless application software components on the one or more remote wireless application server computer. Specifically, col.4, lines 33 - 35 discloses a server that queries the SDC for updates whereupon the SDC services the request by returning the updates to radio via server and base station. No express or inherent description is made of installing the updates on the server as claimed in claim 1 of Applicant's specification.”

Examiner's Response

Amendment to claims acknowledged.

Applicant's Argument

“Applicant respectfully submits that the rejection of independent claim 1 under 35 U.S.C. § 102(b) should be withdrawn because Fette does not disclose each and every element as set forth in claim 1. Applicant respectfully request that the rejection against claim 1 be withdrawn. Furthermore, Applicant respectfully requests that the rejections of dependent claims 2 - 7, which depend, directly or indirectly, from claim 1, be withdrawn because claim 1 is now in condition for allowance.”

Examiner's Response

Amendment to claims acknowledged.

Applicant's Argument

“Replacement drawings sheets are included in Exhibit A. The replacement drawing sheets correct hand written notations and copy marks identified by the Office Action. No new matter has been added.”

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Examiner's Response

New drawings are accepted.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Todd Ingberg** whose telephone number is (703) 305-9775. The examiner can normally be reached during the following hours:

Monday	Tuesday	Wednesday	Thursday	Friday
6:15 – 1:30	6:15- 3:45	6:15 – 4:45	6:15-3:45	6:15-130

This schedule began December 1, 2003 and is subject to change.

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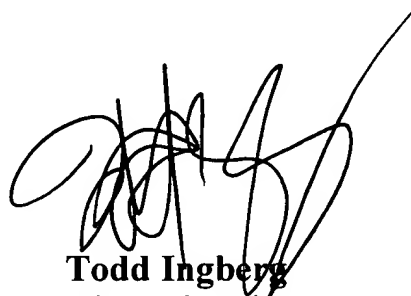
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kakali Chaki** can be reached on (703) 305-9662. Please, note that as of August 4, 2003 the **FAX number** changed for the organization where this application or proceeding is assigned is **(703) 872-9306**.

Also, be advised the United States Patent Office **new address** is

Post Office Box 1450

Alexandria, Virginia 22313-1450

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9700.

A handwritten signature in black ink, appearing to read 'Todd Ingberg', with a long, sweeping line extending from the end of the signature.

Todd Ingberg
Primary Examiner
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March 21, 2004